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**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

In re:

PG&E CORPORATION,

- and -

**PACIFIC GAS AND ELECTRIC
COMPANY,**

Debtors.

- ☐ Affects PG&E Corporation
☒ Affects Pacific Gas and Electric Company
☐ Affects both Debtors

** All papers shall be filed in the Lead Case, No.
19-30088 (DM).*

Bankruptcy Case No. 19-30088 (DM)

Chapter 11

(Lead Case) (Jointly Administered)

**STIPULATION AND AGREEMENT FOR
ORDER RESOLVING THE REORGANIZED
DEBTORS' ONE HUNDRED EIGHTH
OMNIBUS OBJECTION TO CLAIMS
(PURPA CLAIMS)**

[Relates to Dkt. Nos. 11230, 11476, 11477, 11947,
11948, 11231, 11654, 11655]

1 This stipulation and agreement (the “**Stipulation**”) is entered into by and between Pacific Gas
2 and Electric Company (the “**Utility**”),¹ and Winding Creek Solar LLC, Foothill Solar LLC, Hollister
3 Solar LLC, Vintner Solar LLC, Bear Creek Solar LLC, Kettleman Solar LLC, and Allco Renewable
4 Energy Limited (collectively, the “**Claimants**”) to resolve the *Reorganized Debtors’ One Hundred*
5 *Eighth Omnibus Objection to Claims (PURPA Claims)* [Dkt. No. 11230] (the “**Omnibus Objection**”).
6 The Utility and the Claimants are referred to in this Stipulation collectively as the “**Parties**,” and each,
7 including each Claimant, as a “**Party**.”

8 **RECITALS**

9 A. On October 20, 2019, the Claimants filed a complaint (the “**Complaint**”) in the adversary
10 proceeding, *Winding Creek Solar LLC, et al. v. Pac. Gas & Elec. Co.*, Adv. Pro. No. 19-03049 (Bankr.
11 N.D. Cal.) (DM) (the “**Adversary Proceeding**”). See AP Dkt. No. 1.²

12 B. The Complaint contains two alleged causes of action: (1) a claim for damages under the
13 Public Utility Regulatory Policies Act (“**PURPA**”), 16 U.S.C. § 824a-3 & 18 C.F.R. Part 292, Cal. Pub.
14 Util. Code § 399.20 and PG&E’s tariffs, and (2) a claim for injunctive relief under PURPA, 16 U.S.C.
15 § 824a-3 & 18 C.F.R. Part 292, Cal. Pub. Util. Code § 399.20 and PG&E’s tariff.

16 C. On October 21, 2019, Winding Creek Solar LLC filed Claim No. 78665; Foothill Solar
17 LLC filed Claim No. 78580; Hollister Solar LLC filed Claim No. 78304; Vintner Solar LLC filed Claim
18 No. 70884; Bear Creek Solar LLC filed Claim No. 78620; Kettleman Solar LLC filed Claim No. 78560;
19 and Allco Renewable Energy Limited filed Claim No. 76149 (collectively, the “**Claims**”) in these
20 Chapter 11 Cases. Each Claim attached the Complaint.

21 D. On November 20, 2019, the Utility moved to dismiss the Complaint in its entirety (the
22 “**Motion to Dismiss**”). See AP Dkt. No. 8.

23 E. On March 22, 2020, the Court issued a tentative ruling, granting the Motion to Dismiss
24 without leave to amend the Complaint (the “**Tentative Ruling**”). On March 27, 2020, the Parties entered

25 ¹ The Utility, together with PG&E Corporation, are collectively, the “**Debtors**,” or as reorganized
26 pursuant to the *Order Confirming Debtors’ and Shareholder Proponents’ Joint Chapter 11 Plan of*
27 *Reorganization Dated June 19, 2020* [Dkt. No. 8053], the “**Reorganized Debtors**” in the above-
captioned chapter 11 cases (the “**Chapter 11 Cases**”).

28 ² “AP Dkt. No. [●]” refers to docket entries in the Adversary Proceeding.

1 into a stipulation (the “**MTD Stipulation**”) where the Claimants accepted the tentative ruling. *See* AP
2 Dkt. No. 23. Pursuant to the MTD Stipulation, the Motion to Dismiss was granted and the Complaint
3 was dismissed, without leave to amend. *See id.* ¶ 2.

4 F. Pursuant to the MTD Stipulation, the Claimants’ acceptance of the Tentative Ruling was
5 without prejudice as relates to the Claims to the extent such claims “seek damages against the Utility.”
6 *Id.* ¶ 3. The Parties further stipulated that the determination of the merits of the damages claim as
7 asserted in the first cause of action in the Complaint—*i.e.*, claim for damages under PURPA, 16 U.S.C.
8 § 824a-3 & 18 C.F.R. Part 292, Cal. Pub. Util. Code § 399.20 and PG&E’s tariffs—“shall be made
9 exclusively in the context of the claims administration process in these Chapter 11 Cases.” *Id.*

10 G. Pursuant to the MTD Stipulation, the Claimants’ acceptance of the Tentative Ruling did
11 not constitute a waiver of their respective appellate rights as to the second cause of the action in the
12 Complaint for injunctive relief—*i.e.*, claim for injunctive relief under PURPA, 16 U.S.C. § 824a-3 &
13 18 C.F.R. Part 292, Cal. Pub. Util. Code § 399.20 and PG&E’s tariff. *See id.* ¶ 4.

14 H. On March 30, 2020, this Court entered a final order approving the stipulation and
15 dismissing the Complaint without leave to amend (the “**Dismissal**”). *See* AP Dkt. No. 24.

16 I. On April 13, 2020, the Claimants appealed the Dismissal as to their second cause of
17 action for injunctive relief to the United States District Court for the Northern District of California (the
18 “**District Court**”) in the matter *Winding Creek Solar LLC v. Pac. Gas & Elec. Co.*, Case No. 20-cv-
19 02602-HSG (N.D. Cal.) (the “**Appellate Proceeding**”). *See* Appellate Dkt. No. 1.³

20 J. By order dated June 20, 2020 [Dkt. No. 8053] (the “**Confirmation Order**”) the
21 Bankruptcy Court confirmed the *Debtors’ and Shareholder Proponents’ Joint Chapter 11 Plan of*
22 *Reorganization Dated June 19, 2020* (as may be further modified, amended or supplemented from time
23 to time, and together with any exhibits or scheduled thereto, the “**Plan**”). The Effective Date of the Plan
24 occurred on July 1, 2020. *See* Dkt. No. 8252.

25 K. Sections 10.5 and 10.6 of the Plan and Paragraphs 51 and 52 of the Confirmation Order
26 establish the “**Plan Injunction**,” which supersedes the automatic stay in most respects and expressly

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28 ³ “Appellate Dkt. No. [●]” refers to docket entries in the Appellate Proceeding.

1 prohibits (1) commencing, conducting, or continuing in any manner, directly or indirectly, any suit,
2 action, or other proceeding of any kind with respect to any pre-petition claims against the Debtors or
3 Reorganized Debtors, and (2) any effort to enforce, collect or recover on any judgment based on any
4 pre-petition claims.

5 L. On July 15, 2021, the District Court affirmed this Court's order dismissing the Claimants'
6 second alleged cause of action for injunctive relief. *See* Appellate Dkt. No. 17 at 1.

7 M. On September 9, 2021, the Utility filed the Omnibus Objection directed at the only
8 remaining cause of action alleged in the Complaint—damages under PURPA, 16 U.S.C. § 824a-3 & 18
9 C.F.R. Part 292, Cal. Pub. Util. Code § 399.20 and PG&E's tariffs. *See* Dkt. No. 11230.

10 N. This Court held a hearing on the Omnibus Objection on March 2, 2022. Jack Nolan of
11 Weil, Gotshal & Manges LLP appeared on behalf of the Reorganized Debtors, and Thomas Melone of
12 Allco Renewable Energy Limited appeared on behalf of all Claimants.

13 O. At the March 2, 2022 hearing on the Omnibus Objection, the Court stated its position
14 that it would be willing to issue an order sustaining the Omnibus Objection without prejudice to
15 whatever amounts, if any, may be established at some point in the future in a later proceeding that the
16 Claimants may commence (the "**Proceeding(s)**").

17 **NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED BY AND**
18 **BETWEEN THE PARTIES, THROUGH THE UNDERSIGNED, AND THE PARTIES**
19 **JOINTLY REQUEST THE COURT TO ORDER THAT:**

20 1. This Stipulation shall be effective upon entry of an order by this Court approving it.

21 2. The Omnibus Objection is sustained. The Claims listed in the column headed "Claims to
22 Be Disallowed and Expunged" in **Exhibit 1** to this Stipulation are disallowed and expunged without
23 prejudice to whatever amounts, if any, may be established in a later Proceeding. The Plan Injunction
24 shall be modified to permit the Claimants to pursue the Proceeding(s).

25 3. In the event any final judgment or order is entered in a Proceeding, within 30 days thereof,
26 the Claimants shall file a Claim in these Chapter 11 Cases based on any amounts owed by the Debtors
27 as determined in such Proceeding, and which Claim shall be considered timely filed.

1 4. The Parties reserve all rights, objections, contentions, defenses, and arguments with
2 respect to the Claims, and all matters and/or issues relating to the Claims, in any later Proceeding.

3 5. The signatory for the Claimants represents that he or she has the power to bind each and
4 every Claimant to this Stipulation.

5 6. In the event that the terms of this Stipulation are not approved by the Bankruptcy Court,
6 it shall be null and void and have no force or effect and the Parties agree that, in such circumstances, this
7 Stipulation shall be of no evidentiary value whatsoever in any proceedings.

8 7. This Stipulation shall be binding on the Parties and each of their successors in interest.

9 8. This Stipulation shall constitute the entire agreement and understanding of the Parties
10 relating to the subject matter hereof and supersede all prior agreements and understandings relating to
11 the subject matter hereof.

12 9. The Bankruptcy Court shall retain jurisdiction to resolve any disputes or controversies
13 arising from this Stipulation or any Order approving the terms of this Stipulation.

14 Dated: June 15, 2022

15 **WEIL, GOTSHAL & MANGES LLP**
16 **KELLER BENVENUTTI KIM LLP**

CAIRNCROSS & HEMPELMANN

17 /s/ Theodore E. Tsekerides
18 Theodore E. Tsekerides

/s/ John Rizzardi
John Rizzardi (*Pro Hac Vice*)

19 *Attorneys for Debtors and*
20 *Reorganized Debtors*

Attorneys for Claimants